

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8317 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHANDUBHAI SITARAM KARENJE

Versus

COMMISSIONER OF POLICE

Appearance:

MR ADIL MEHTA for Petitioner

SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 02/12/96

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 3.7.1996. It appears from the grounds of detention that four cases have been registered against the petitioner for offences under the provisions of the Bombay Prohibitions Act, 1948. Statements of witnesses have also been recorded on 23.6.1996, 24.6.1996, 25.6.1996 and on 30.6.1996. In the statement, the witnesses have made

certain statements showing that the petitioner is a high-handed man of furious nature and his high-handedness such has caused terror to the public.

2. It is contended by the learned Advocate for the petitioner that simply because the petitioner is a bootlegger, it cannot be said that his activities are prejudicial or likely to be prejudicial to the maintenance of public order. The learned Advocate, relying on the decision of the Supreme Court in the case of Piyush Kantibhai Mehta v. Commissioner of Police, reported in AIR 1989 SC 491, submits that the statements in the instant case are of stereotype and it cannot be treated different from the statements made in the case before the Supreme Court in Piyush Kantilal Mehta's case (Supra).

3. In reply, counter affidavit has been filed by Mr Raj Gopal, Deputy Secretary, Home Department, Sachivalaya, Gandhinagar and Mr R M S Brar, Commissioner of Police, Baroda City.

4. I have gone through the material available on record with the assistance of the learned Advocates for the parties and also perused the reply filed by the detaining authority and by Mr Raj Gopal, Deputy Secretary. Considering the facts of the case, in my view, isolated incidence can hardly create any implication which may affect the tempo of life or even jeopardise the public order. In view of the various decisions of the Apex Court and this Court, activities of the petitioner cannot be said to be prejudicial to the maintenance of public order in addition to the petitioner being a bootlegger.

5. Thus, in my view, the detention of the petitioner is illegal and the same cannot be sustained. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention dated 3.7.1996 is quashed and set aside. The detenu shall be released forthwith if not required in any other case. Rule made absolute accordingly.

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